

US EPA ARCHIVE DOCUMENT



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 25 2011

THE ADMINISTRATOR

The Honorable Kay Bailey Hutchison
United States Senate
Washington, DC 20510

Dear Senator Hutchison:

Thank you for your December 29, 2010 letter about the Environmental Protection Agency's intent to develop greenhouse gas emissions performance standards for oil refineries under Section 111 of the Clean Air Act. I share your desire that the EPA's work to implement the Act's protections for the American public reflect close attention to impacts on the American economy. Neither the updated refinery standards nor the other safeguards referenced in your letter will impose hardship on businesses or consumers.

The upcoming refinery standards and the other steps that the EPA has taken to address greenhouse gas emissions under the Clean Air Act stem from the Supreme Court's April 2007 conclusion that the Act's definition of "air pollutant" includes greenhouse gases. The EPA is following the Supreme Court's reading of Congress's instructions to this agency.

The EPA's greenhouse gas emissions performance standards for refineries will be based on commercially available technologies with proven track records. They will reflect careful consideration of costs and incorporate as much compliance flexibility as possible.

Before even putting pen to paper on proposed standards, the EPA has invited refining companies to tell the agency at a public forum that will take place on February 10 how they would like the EPA to shape the new requirements. The agency also has made clear that it welcomes detailed suggestions on a continuing basis from all affected stakeholders before it proposes standards, which the EPA will not do until December 2011. At that point, the EPA will invite all members of the public to comment on the proposal. The agency will review those comments carefully before making any final decisions. I respectfully request that you and the refining industry engage substantively in the inclusive, open process that the EPA has initiated, so that all perspectives can be considered.

Your concerns about the EPA's upcoming refinery standards seem to be based in part on the economic projections that you and Senator Bond made about the proposed American Clean Energy and Security Act. It is important to note, however, that the

ambitions of any greenhouse gas emissions performance standards established under Section 111 of the Clean Air Act will necessarily be much more modest than those of an entirely new, far-reaching piece of legislation. There is little reason to expect, then, that any projected economic impacts of the entire American Clean Energy and Security Act apply to the standards that the EPA plans to develop under Section 111 of the existing Clean Air Act.

Toward the end of your letter, you refer to the Clean Air Act stationary source permitting requirements that have begun, this year, to apply to greenhouse gas emissions. In that regard, I want to point out that the EPA has already promulgated a rule to exclude small sources – including hospitals, schools, farms, and small businesses – from those requirements. Although the government of the State of Texas and other petitioners asked a U.S. Court of Appeals to stay that rule, the court declined to do so.

Thank you again for your letter. I hope that you and your constituents will participate in the inclusive, open process that the EPA has initiated nearly a year before even proposing greenhouse gas emissions performance standards for oil refineries. If you have any questions, please feel free to contact me or to have your staff contact David McIntosh, the associate administrator for Congressional and intergovernmental relations, at (202) 564-0539.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Jackson', with a stylized flourish extending to the right.

Lisa P. Jackson